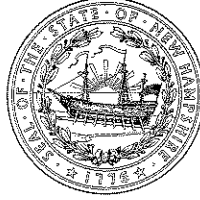


**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

December 30, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

A Statewide Voter Registration System established to comply with the Help America Vote Act.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits its Statewide Voter Registration System established to comply with the Help America Vote Act for preclearance.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

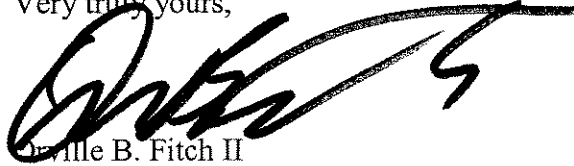
- a) The user manual for the New Hampshire Statewide Voter Registration System ("SVRS"), commercially titled "ElectionNet." Exhibit SVRS A. This system is a central computer system with the complete SVRS database connected via the Internet to computers provided to each municipality. Election officials using the state provided computer, a municipal computer, or a personal computer can log into SVRS using a secure password controlled system. The authorized election officials can then perform the functions described in Exhibit A.

- b) The practice being changed predates the duty to preclear. Prior to the implementation of the Statewide Voter Registration System each city, town, village district, and in some cases school districts maintained their own system of records on registered voters. These systems varied from paper files to commercial software that provided a variety of databases for municipalities.
- c) The change being made does not directly affect how a person registering to vote will register. The times, places, and manner of registering will not be affected by this change. Currently in some municipalities instead of having the applicant hand write a voter registration application and then typing that data into the database, the election official will fill in the data into the database using the applicant's driver's license or by asking questions and then print out a completed voter registration form which the voter verifies and signs. This option will be universally available, therefore, more applicants may have their data entered during the registration process as opposed to having to handwrite the data onto the forms themselves.
- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a decision of the Secretary of State pursuant to the authority granted by RSA 654:45. RSA 654:45 has previously been precleared.
- h) The Secretary of State established an advisory committee with members representing all interest groups related to elections. Members of this group participated in both the development of the RFP and the evaluation the proposals that were submitted. Local election officials participated in the Joint Application Development process which fine tuned the modification of the ElectionNet commercial software to meet the requirements of New Hampshire's voters and state and federal law.
- i) Adoption. The SVRS system is currently in place, integration and cleaning of the data uploaded from the systems maintained by the towns is ongoing, training of end users is ongoing.

- j) Effective: As of January 1, 2006, the checklist for any election held in the State will be produced by the SVRS system. Actual use in a federal election will not occur until the September 2006 primary, unless a special election becomes necessary before that date.
- k) The changes have not been enforced.
- l) The changes affect the entire State of New Hampshire.
- m) The purpose for the changes are as follows:
 - 1. To comply with the Help America Vote Act of 2002.
 - 2. To deter and detect voter fraud by reducing the possibility that a person can be registered to vote simultaneously in two different New Hampshire Jurisdictions.
 - 3. To verify the data provided by those applicants who are licensed to drive, possess a state issued non-driver ID, or for those who have neither, but who have a social security number, by matching the driver's license number and data or the last four digits through an automated verification process with the New Hampshire Department of Safety, and through the Department of Safety with the Social Security Administration. See Exhibit SVRS B, SSA Agreement.
- n) These changes do not negatively target any protected class under Section 5 of the Voting Rights Act of 1965. 42 U.S.C. § 1973 (c). They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). "(T)he ability of minority groups ... to elect their choices to office" will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
- o) None known.
- p) The prior practice predates the requirement for preclearance.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit SVRS C is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Deville B. Fitch II", with a long, sweeping horizontal line extending to the right.

Deville B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov

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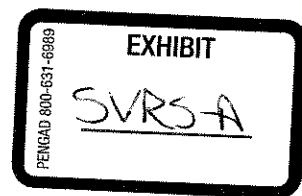
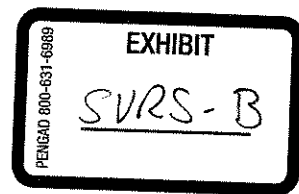


EXHIBIT SVRS A

This exhibit is voluminous and is available upon a written request.



USER AGREEMENT

for

VOTER REGISTRATION INFORMATION VERIFICATION SYSTEM SERVICES

between

**THE NEW HAMPSHIRE MOTOR VEHICLE
ADMINISTRATION (MVA)**

and

THE SOCIAL SECURITY ADMINISTRATION (SSA)

Article I
Purpose and General Background

The purpose of this user agreement is to define the process by which SSA will provide, upon request, verification of certain voter registration information to the New Hampshire MVA for its use in the registration of voters for an election for Federal office. Verified information will be provided under the terms, conditions and safeguards of this agreement and the Help America Vote Act of 2002 (HAVA or Act), and may be used only for the purposes described within this agreement and the Act.

HAVA places certain requirements on State, Washington D.C., and Territorial voter registration officials regarding verification of information provided on voter registration applications. Section 303(a)(5)(A) of HAVA, requires that, to be acceptable, applications for voter registration for an election for Federal office must provide information as follows:

- (i) In General – Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for Federal office may not be accepted or processed by a state unless the application includes—
 - (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or
 - (II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number.

Section 303(a)(5)(A)(iii) provides that the State, Washington D.C., or Territory shall determine whether the information provided by an individual is sufficient to meet the requirements of HAVA, in accordance with State, Washington D.C., or Territory law.

Section 303(a)(5)(B)(i), requires the chief State, Washington D.C., or Territory election official and the official responsible for the MVA to enter into an information matching agreement to enable each such official to verify the accuracy of the information provided on applications for voter registration for elections for Federal office. Section 303(a)(5)(B)(ii) further requires the official responsible for the MVA to enter into an agreement with the Commissioner of Social Security who, at the request of the official responsible for the MVA, shall enter into an agreement with that official for the purpose of verifying "applicable information."

"Applicable information" means information regarding whether--

- the name (including first name and any family forename or surname),
- the date of birth (including month, day, and year), and
- the last 4 digits of the individual's SSN match the information contained in SSA's records, and
- such individual is shown on the records of SSA as being deceased.

Section 303(a)(5)(C) (as codified at 42 U.S.C. §405(r)(8)(C)-(D)), also provides that SSA shall develop methods to verify the accuracy of information provided by the respective MVAs, and that the "applicable information" will be matched with the information contained in SSA's records. SSA will make appropriate efforts to provide verifications by comparing the information provided by the applicant with information in SSA's Master Files of Social Security number (SSN) Holders and Applications data base. However, because SSA's enumeration records are based on a complete and unique 9 digit SSN, verifications using only the last 4 digits of that number are inherently a partial rather than the full "9-digit" verification and may result in multiple positive matches or false positive matches of information.

Article II

Legal Authority

Legal authorities for the disclosures contemplated in this user agreement are found at section 205(r)(8) and §1106 of the Social Security Act (42 U.S.C. §405(r)(8)) established by Public Law 107-252, the Help America Vote Act of 2002 and are consistent with Privacy Act (552a(a)(7) and (b)(3) and disclosure regulations, 20 C.F.R. §401.120 and 401.150(c).

Routine use number 41 in the Master Files of Social Security (SSN) Holders and SSN Application, 60-0058 system of records, permits SSA to disclose information to the State and Territory Motor Vehicle Administration officials (or agents or contactors on their behalf) and State and Territory chief election office to verify the accuracy of information provided with respect to applications for voter registration for whom the last four digits of the Social Security number are provided instead of a drivers license.

Article III

Voter Registration Information Verification Process

Nationally, most people of voting age possess a valid driver's license. Consequently, verification of applicant information with Social Security Administration records will not be necessary or appropriate in the majority of cases. In addition, verifications contemplated under the terms of this agreement shall be requested only for new applicants for voter registration. This service shall not be used to verify information for voters already on state voter registration rolls.

42 U.S.C. § 405(r)(8)(B) provides that the Commissioner of Social Security has the authority to decide when, where, and in what manner an MVA will, pursuant to an agreement, provide information to SSA to conduct verifications of certain voter registration information. Under that authority, the Commissioner has determined that it is most appropriate for SSA to provide the required verification services by interacting with only one entity. That entity will jointly serve the interests of all the MVAs and SSA by serving as an electronic information conduit between the MVAs and SSA. The Commissioner selected the American Association of Motor Vehicle Administrators (AAMVA) to serve in this capacity. AAMVA has agreed to this arrangement.

The verification system will be an electronic "online" process between the MVAs and AAMVA and between AAMVA and SSA. All requests for verification of voter registration information shall be forwarded from the MVAs to AAMVA and from AAMVA to SSA. SSA shall process the requests and return the results to AAMVA. AAMVA shall, in turn, forward the results to the MVA. There will be no direct MVA to SSA or SSA to MVA voter registration information verification process.

For purposes of implementation of HAVA, under this user agreement the order of verification followed by MVA, AAMVA, and SSA shall be sequential as follows:

- if a valid driver's license exists, the MVA shall compare it to its records and return the result to the voter registration authority. If no valid driver's license exists and
 - the applicant has an SSN, the MVA may request verification of applicant information from SSA via AAMVA.
1. Employing the prescribed sequence described above, each MVA shall submit verification requests one-at-a-time over the time period deemed appropriate to their voter registration process. Requests for verifications of voter registration information received from the MVAs shall include:
 - the applicant's name (including first name and any family forename or surname),
 - the date of birth (including month, day, and year), and
 - the last 4 digits of the individual's SSN.
 2. The online verification requests shall be sent to AAMVA.
 3. AAMVA shall forward the request files from the MVAs to SSA for processing.
 4. SSA shall process the request files, comparing information submitted with information in SSAs Master Files of Social Security Number (SSN) Holder and Applications data base and will return responses indicating:
 - no match found,
 - one unique match-no death indicator present,
 - one unique match-death indicator present,
 - multiple matches-at least one with no death indicator (e.g., one live hit),
 - multiple matches-all matches have death indicator,
 - multiple matches-with multiple no death indicators (e.g., multiple live hits), or
 - transaction did not process, invalid data.
 5. SSA will make this service available every Federal business day excluding reasonable system down-time for periodic or emergency maintenance. Verification results will

normally be returned to AAMVA within 1 Federal business day of SSA's receipt of the request.

6. AAMVA shall return the results to the appropriate MVAs for subsequent distribution to the voter registration authorities. The timeframe for AAMVA's distribution of verification results is not under SSA's control.

Article IV

Confidentiality of Information Provided by the Commissioner

All information provided by the Commissioner pursuant to this user agreement shall be considered as strictly confidential and shall be used only for the purposes described in Article I of this user agreement. Any officer or employee or former officer or employee of a state, Washington D.C., or territory MVA, or any officer or employee or former officer or employee of a contractor of a state, Washington D.C., or territory MVA who, without written authority from the Commissioner, publishes or communicates any information in such individual's possession by reason of such employment or position as such an officer, shall be guilty of a felony and upon conviction thereof shall be fined or imprisoned, or both, as described in §§ 208 and 1106 of the Social Security Act (42 U.S.C. §§ 408 and 1306).

Article V

Confidentiality Safeguards and Record Maintenance

42 U.S.C. § 405(r)(8)(A)(ii), provides that this user agreement shall include safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit MVA use of the applicable information for the purpose of maintaining its records.

- The official responsible for the New Hampshire MVA shall ensure that the MVA follows applicable State, Territorial, and Federal laws governing confidentiality of applicable information received under the terms of this user agreement.
- The official responsible for the New Hampshire MVA shall ensure that access to the MVA data base used to house applicable information received under the terms of this user agreement is limited to only those individuals with a need to access the information in their official conduct of voter registration and/or data base maintenance responsibilities. No other uses of this information may be made.
- The official responsible for the New Hampshire MVA shall ensure that all individuals with access to applicable information received under the terms of this user agreement are aware of and understand the penalties for breaches of confidentiality as discussed in Article IV of this user agreement.
- SSA reserves the right to make onsite inspection of the New Hampshire MVA to ascertain the effectiveness of the confidentiality safeguards employed for information gathered under this law.

Article VI

Cost Reimbursement

42 U.S.C. § 405(r)(8)(A)(i), specifies that the Commissioner shall enter into an agreement with the MVA, “. . . so long as the requirements of subparagraphs (A). . . are met. . .” Subparagraph (A) found in § 205(r)(3)(A) of the Social Security Act (42 U.S.C. § 405(r)(3)(A)), states, “under such arrangement the agency provides reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out such arrangement, . . .” Reimbursement for:

- Voter Registration Information Verification System development,
- start-up,
- information verification search,
- ongoing maintenance/administration, and
- miscellaneous costs incurred by SSA

shall, per the law, be borne by the states, Washington D.C., and the territories for which the Voter Registration Information Verification System is being created. If the New Hampshire MVA fails to reimburse SSA voluntarily through AAMVA, the New Hampshire MVA will remain liable to SSA and SSA will collect reimbursement from the State through any and all legal means available to it.

For any amounts past due, subchapter II of Chapter 37 of Title 31, United States Code, as amended by the Debt Collection Improvement Act of 1996, and regulations implementing this statute, require that interest, administrative costs and penalties be charged if debts are not paid within 30 days of the mailing of the first notice of indebtedness. SSA will use the “Private Consumer Rates of Interest” developed by the Department of Treasury and apply them against overdue payment for each 30-day period, or portion thereof, that payment is delayed.

Provision for appropriations in support of this Act was included in the Act. (See sections 103 and 104 of the Act.) SSA adopts the same proportions to determine the amount each state, Washington D.C., and each territory shall reimburse SSA for its system development and start-up costs.

“Per verification” charges for verifications of voter registration information shall be the same for each MVA.

- SSA’s System Development and Start-up Costs:

SSA’s system development and start-up costs are approximately \$1.3 million. The proportionate share of these costs as explained in the preceding paragraph, shall be paid directly to SSA from the office of the official responsible for the New Hampshire MVA on behalf of the chief election official. AAMVA will

contact the MVA to collect this payment on behalf of SSA upon ratification of this user agreement.

- New Hampshire MVA's Start-up and continuing Costs:

All New Hampshire MVA site preparation, hardware, software, connection, and operating costs, as well as any other costs incurred by the New Hampshire MVA are the responsibility of and shall be borne by the New Hampshire MVA.

- Voter Registration Information Maintenance and Verification Costs:

SSA, with the assistance of AAMVA and the New Hampshire MVA as needed, will project quarterly Voter Registration Information Verification System usage and will calculate charges accordingly. The current fee for each record verification is \$.0062. The yearly maintenance fee (which includes administrative charges) is estimated to be approximately \$200,000. Each state will be billed the proportionate share of these costs. The resulting notice of charges will be provided to AAMVA for its prospective reimbursement to SSA. AAMVA shall forward the payment for the projected quarterly usage to SSA upon receipt of the notice of charges. AAMVA will establish its own reimbursement process for these costs with the New Hampshire MVA.

SSA's costs related to providing the verification service discussed in this user agreement will be recalculated periodically (annually at a minimum) and charges adjusted accordingly. Such expense recalculations will not require amendment to this user agreement.

Article VII

Period of and Alterations to User agreement

This user agreement is the user agreement governing use of SSA's Voter Registration Information Verification System for all states, Washington D.C., and territories of the United States. This user agreement is effective upon signature of both parties and shall remain in effect as required by HAVA. The user agreement may be reviewed from time-to-time and changes made as appropriate. Any changes made shall apply to all states, Washington D.C., and territories of the United States.

Persons to be Contacted for Further Information or Assistance

SSA Regional Contact:

Name Morris McCain
Title Social Insurance Specialist
Address JFK Federal Building, Room 1925
 Boston, MA 02203
Telephone (617) 565-2855
E-Mail morris.mccain.jr@ssa.gov

New Hampshire MVA Contact:

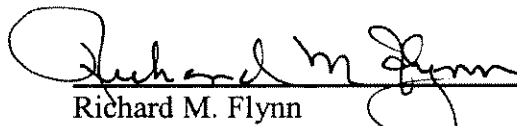
Name: Orville B. Fitch II
Title: Senior Assistant Attorney General
Address: 33 Capitol Street, Concord, New Hampshire 03301
Telephone: (603) 271-1238
E-Mail: bud.fitch@doj.nh.gov

Signatures of Authorized Officials

Each official executing this user agreement is authorized to enter into user agreements of this nature on behalf of his/her organization. In witness thereof, the parties hereby execute this user agreement.

Manuel J. Vaz
Regional Commissioner
Social Security Administration

Date _____



Richard M. Flynn
Commissioner, New Hampshire Department of Safety
New Hampshire Motor Vehicle Administration

Date 12/29/05

USER AGREEMENT
for
VOTER REGISTRATION INFORMATION VERIFICATION SYSTEM SERVICES
between
THE NEW HAMPSHIRE MOTOR VEHICLE AUTHORITY
and
THE SOCIAL SECURITY ADMINISTRATION

Memorandum of Understanding

Help America Vote Act Implementation and Enhanced Data Exchange for Database Accuracy

Between the New Hampshire Department of State And the New Hampshire Department of Safety, Division of Motor Vehicles

The Department of State (hereinafter "State"), by and through the Secretary of State, and the New Hampshire Department of Safety, Division of Motor Vehicles (hereinafter "Safety"), by and through its Director, enter into this Memorandum of Understanding (hereinafter "MOU"), and agree to collaborate in the exchange of data as authorized by and to satisfy the requirements of the Help America Vote Act of 2002 ("HAVA"); RSA 654:45; RSA Chapter 5-C, and to enhance public safety, homeland security, and service to the public by ensuring that Safety and State databases are accurate.

Whereas, public safety, homeland security, and the legitimacy of elections are enhanced when Safety and State registration systems exchange data that will help prevent a person from using a fraudulent address or the identity of a deceased person to obtain a driver's license, to register a motor vehicle, or to register to vote; and

Whereas, Safety and State have a common statutory duty to protect the privacy interests of persons whose private data is collected and stored in data bases; and

Whereas the federal Help America Vote Act of 2002, requires State to match new voter registration records with Safety's records or if the person has no driver's license or State issued non-driver ID, through Safety with the United States Social Security Administration; and

Whereas RSA 654:45 authorizes State and Safety to link their records systems for the purposes of complying with the Help America Vote Act and ensuring the accuracy of data in the voter database; and

Whereas RSA 654:45 provides that the voter database is private and confidential and makes unauthorized disclosure of data from the voter database a misdemeanor; and

Whereas RSA chapter 5-C authorizes the disclosure of certain information to state agencies and law enforcement who have a direct and tangible interest in the record and it is agreed that Safety has a direct and tangible interest in information on the death of persons who are licensed to drive, have been issued non-driver identification, or who have registered motor vehicles in the State and further recognizing that the one function of the Division of Vital Records is to assure the privacy of data maintained on individuals, therefore;

The parties agree that State and Safety shall provide the other limited access to Vital Records, Voter Registration, Driver Licensing, and Motor Vehicle databases to the minimum extent necessary to prevent fraudulent voter or motor vehicle registration or driver licensing.

I. Social Security Administration Costs.

- A. State agrees to pay all costs and fees charged to Safety by the Social Security Administration (“SAA”), whether charged directly or through the American Association of Motor Vehicle Administrators (“AAMVA”), for services directly related to establishing, maintaining, and using the social security number verification system required by HAVA. Safety agrees to promptly transmit all invoices from the SSA or AAMVA for services and the periodic bills for the per record verification to State’s offices in room 204 the Statehouse.
- B. Safety agrees to enter into an agreement with the Social Security Administration to obtain voter registration information verification system services and to provide those services to State.

II. Internal Costs

Safety and State agree that the costs and benefits of the mutual exchange of data from State to Safety on deaths and from Safety to State on driver’s license, non-driver identification, and motor vehicle registration present both Departments with approximately equal costs and benefits. Each agrees to bear its own costs in providing the data and mechanisms of exchange. Safety and State agree to cooperate in providing the other with access to data files of street lists and any other data which can be lawfully exchanged in the interest of minimizing the development and maintenance costs of databases for both departments.

III. Miscellaneous Provisions

- A. The parties agree that the Memorandum of Understanding shall continue in force until terminated by either party by serving written notice on the other no less than 60 days prior to the effective date of the termination.
- B. Nothing in this agreement shall be deemed a waiver of the doctrine of sovereign immunity on the part of the State of New Hampshire.
- C. The term of this agreement shall commence as of the date signed and shall continue until terminated as per (a) above.

Signed: _____ Date _____

William M. Gardner
Secretary of State

For the Division of Vital Records and For the
Elections Division of the Department of State

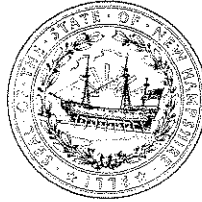
Signed: Virginia C. Beecher Date 12/29/05

Virginia C. Beecher
Director Of Motor Vehicles,
New Hampshire Department of Safety

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov